

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building		(2) MEETING DATE May 2, 2006		(3) CONTACT/PHONE Stephanie Fuhs (805) 781-5721	
(4) SUBJECT Approval of an Open-Space Agreement and Agreement Establishing Restrictions and Obligations for Real Property Adjusted by Lot Line Adjustment COAL 04-0118 with Stan Weaver Construction Inc., a California Corporation, Larry A. Ulam, Nettie Ulam Fort, Trustee or Successor Trustee for the John Douglas Fort and Nettie Ulam Fort Trust u/t/a dated December 28, 1983, Supervisorial District #5					
(5) SUMMARY OF REQUEST Request the Board of Supervisors adopt the resolution accepting the Open-Space Agreement and Agreement Establishing Restrictions and Obligations for real property adjusted by Lot Line Adjustment COAL 04-0118 with Stan Weaver Construction Inc., a California Corporation, Larry A. Ulam, Nettie Ulam Fort, Trustee or Successor Trustee for the John Douglas Fort and Nettie Ulam Fort Trust u/t/a dated December 28, 1983. The project is located on the west side of Highway 41, at 14199 Morro Road, west of the city of Atascadero.					
(6) RECOMMENDED ACTION Adopt the resolution approving and accepting the Open-Space Agreement and Agreement Establishing Restrictions and Obligations for Real Property Adjusted by Lot Line Adjustment COAL 04-0118 with Stan Weaver Construction Inc., a California Corporation, Larry A. Ulam, Nettie Ulam Fort, Trustee or Successor Trustee for the John Douglas Fort and Nettie Ulam Fort Trust U/T/A Dated December 28, 1983.					
(7) FUNDING SOURCE(S) Current Budget		(8) CURRENT YEAR COST n/a		(9) ANNUAL COST n/a	
(10) BUDGETED? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): County Counsel, County Public Works Department					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4th, <input checked="" type="checkbox"/> 5th, <input type="checkbox"/> All		(14) LOCATION MAP <input checked="" type="checkbox"/> Attached <input type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board	
(16) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _____) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _____)		(17) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions (Orig + 4 copies) <input type="checkbox"/> Contracts (Orig + 4 copies) <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A			
(18) NEED EXTRA EXECUTED COPIES? <input type="checkbox"/> Number: _____ <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(19) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A			
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) _____		(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input checked="" type="checkbox"/> N/A Date _____	
(23) ADMINISTRATIVE OFFICE REVIEW <div style="text-align: right; margin-top: 20px;"> <i>OK Leslie Brown</i> <i>B-11 (5.2.06)</i> </div>					



SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

TO: BOARD OF SUPERVISORS

FROM: STEPHANIE FUHS, CURRENT PLANNING

VIA: WARREN HOAG, DIVISION MANAGER, CURRENT PLANNING *WH*

DATE: MAY 2, 2006

SUBJECT: APPROVAL OF AN OPEN-SPACE AGREEMENT AND AGREEMENT ESTABLISHING RESTRICTIONS AND OBLIGATIONS FOR REAL PROPERTY ADJUSTED BY LOT LINE ADJUSTMENT COAL 04-0118 WITH STAN WEABER CONSTRUCTION INC., A CALIFORNIA CORPORATION, LARRY A. ULAM, NETTIE ULAM FORT, TRUSTEE OR SUCCESSOR TRUSTEE FOR THE JOHN DOUGLAS FORT AND NETTIE ULAM FORT TRUST U/T/A DATED DECEMBER 28, 1983, SUPERVISORIAL DISTRICT #5

RECOMMENDATION

Adopt the resolution approving and accepting the Open-Space Agreement and Agreement Establishing Restrictions and Obligations for Real Property Adjusted by Lot Line Adjustment COAL 04-0118 with Stan Weaber Construction Inc., a California Corporation, Larry A. Ulam, Nettie Ulam Fort, Trustee or Successor Trustee for the John Douglas Fort and Nettie Ulam Fort Trust U/T/A Dated December 28, 1983.

DISCUSSION

Attached is an open-space agreement and agreement establishing restrictions and obligations which were required by conditions of approval for Lot Line Adjustment COAL 04-0118. The open space agreement was required in order to provide open areas on the project site to protect existing oak groves and sensitive native vegetative understory. The agreement establishing restrictions and obligations includes provisions for future development including building envelopes, oak tree mitigation measures for tree removal and impacts, and requirements for an engineering geology report.

The area included within the open space easement is approximately 19 acres. The total project site is 24.06 acres.

The attached proposed open-space agreement is found to be consistent with the County's general plan.

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OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel prepared the agreements and approved the resolutions and documents as to form and legal effect. County Public Works reviewed and approved the legal description of the area subject to the provisions of the open space agreement.

FINANCIAL CONSIDERATIONS

None.

RESULTS

Approving and accepting the open space easement will preserve approximately 19 acres of the project site containing oak groves and sensitive native vegetation in conformance with conditions of approval. Approving and accepting the agreement establishing restrictions and obligations will ensure that future development will be limited to designated building envelopes, that trees removed and impacted will be replaced and that an engineering geology report will be submitted and approved prior to issuance of construction permits.

ATTACHMENTS

Resolution
Agreement
Vicinity Map
Site Plan

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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

**RESOLUTION APPROVING AGREEMENT ESTABLISHING RESTRICTIONS AND
OBLIGATIONS FOR REAL PROPERTY ADJUSTED BY LOT LINE ADJUSTMENT COAL 04-0118
WITH STAN WEABER CONSTRUCTION INC., A CALIFORNIA CORPORATION, LARRY A
ULAM, NETTIE ULAM FORT, TRUSTEE OR SUCCESSOR TRUSTEE FOR THE JOHN DOUGLAS
FORT AND NETTIE ULAM FORT TRUST U/T/A DATED DECEMBER 28, 1983**

The following Resolution is hereby offered and read:

WHEREAS, the Director of Planning and Building by letter dated May 2,
2000 has duly recommended that the Board of Supervisors enter into the above-mentioned
agreement.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors
of the County of San Luis Obispo, State of California, as follows:

1. That the Agreement Establishing Restrictions and Obligations for Real Property
Adjusted by Lot Line Adjustment COAL 04-0118, a copy of which is attached hereto and
incorporated by reference herein as though set forth in full, is hereby approved by the County of San
Luis Obispo and the Chairperson of the Board of Supervisors is hereby authorized and directed to
execute said agreement on behalf of the County of San Luis Obispo.

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2. That the County Clerk is hereby authorized and directed to record this resolution and the above agreement in the office of the County Recorder of the County of San Luis Obispo.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call votes, to-wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors, County
of San Luis Obispo, State of California

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: _____

Deputy County Counsel

Dated: _____

April 12, 2006

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RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

APN 051-341-004
051-341-007
051-351-005
051-351-007

AGREEMENT ESTABLISHING RESTRICTIONS AND OBLIGATIONS FOR
REAL PROPERTY ADJUSTED BY LOT LINE ADJUSTMENT COAL 04-0118

THIS AGREEMENT is made and entered into this _____ day of _____,
20__, by and between STAN WEABER CONSTRUCTION, INC., a California ^{Corporation,} ~~company,~~
LARRY A ULAM, LAURA J. ULAM, JOHN DOUGLAS FORT AND NETTIE ULAM
FORT, TRUSTEES OR SUCCESSOR TRUSTEES FOR THE JOHN DOUGLAS FORT
AND NETTIE ULAM FORT TRUST U/T/A DATED DECEMBER 28, 1983, hereinafter
collectively referred to as "Owner," and the COUNTY OF SAN LUIS OBISPO, a political
subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Owner is record owner of certain real property (hereinafter referred
to as "Owner's Property") located in the unincorporated area of the County of San Luis
Obispo described in Exhibit A attached hereto and incorporated by reference herein as
though set forth in full; and

ck. title rpt./COAL 04-0118

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WHEREAS, Owner has filed an application and lot line adjustment map requesting approval of Lot Line Adjustment COAL 04-0118; and

WHEREAS, Owner agreed in his project description to include the obligations and restrictions set forth below in this agreement as covenants, conditions, and restrictions affecting the use of Owner's Property; and

WHEREAS, as agreed to by Owner and as a condition of approval of said lot line adjustment and as a condition precedent to the approval and recordation of Parcel Map COAL 04-0118 completing and finalizing said lot line adjustment, Owner is required to enter into an agreement with the County imposing the restrictions and obligations set forth below as an obligation of Owner and the successors in interest of Owner's Property; and

WHEREAS, by the execution of this agreement by Owner and County, and the subsequent performance of the obligations of this agreement by Owner and his successors in interest, Owner will have satisfied the requirements of condition 13 of the conditions of approval of said lot line adjustment; and

WHEREAS, Owner has supplied County with a current title company preliminary title report or preliminary subdivision guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on Owner's Property.

NOW, THEREFORE, in consideration of County approval of Parcel Map 04-0118 to complete and finalize the above lot line adjustment and the benefits conferred thereby on Owner and Owner's Property, and in further consideration of the mutual promises, covenants and conditions herein contained, the parties hereto agree as follows:

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1. Restrictions and obligations. The Owner agrees to each of the following restrictions and obligations affecting the use of Owner's Property:

(a) At the time of application for construction permits, the Owner shall clearly delineate the building envelopes on the project plans. All new development (e.g., residences, detached garages, guest houses, sheds, shall be located within the building envelopes).

(b) Prior to final inspection of any construction, the Owner shall replace, in kind at a 2:1 ratio for all oak trees removed as a result of the development of the project, and in addition, shall replace, in kind at a 1:1 ratio for all oak trees impacted. No more than 160 oak trees having a six inch diameter or larger at four feet from the ground shall be removed or impacted as a result of the development of the project (as shown on the exhibit referred to in the staff report and on file within the Department of Planning and Building). Replanting shall be completed as soon as it is feasible (e.g., irrigation water is available, grading done in replant area). Replant areas shall be either in native topsoil or areas where native topsoil has been reapplied. If the latter, topsoil shall be carefully removed and stockpiled for spreading over graded areas to be replanted (set aside enough for 6-12" layer).

Location of newly planted trees should adhere to the following, whenever possible: on the north side of and at the canopy/dripline edge of existing mature native trees; on north-facing slopes; within drainage swales (except when riparian habitat present); where topsoil is present; and away from continuously wet areas (e.g., lawns, leach lines). The area previously disturbed as part of soils exploration shall be the first area to be vegetated.

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These newly planted trees shall be maintained until successfully established. This shall include protection (e.g., tree shelters, caging) from animals (e.g., deer, rodents), regular weeding (minimum of once early Fall and once early Spring) of at least a three-foot radius out from plant and adequate watering (e.g., drip-irrigation system). Watering should be controlled so only enough is used to initially establish the tree, and reducing to zero over a three-year period. If possible, planting during the warmest, driest months (June through September) shall be avoided. In addition, standard planting procedures (e.g., planting tablets, initial deep watering) shall be used.

(c) Prior to final inspection of the first grading or construction permit, and after the trees have been planted, the Owner shall retain a qualified individual (e.g., landscape contractor, arborist, nurseryman, botanist) to prepare a letter stating the above planting and protection measures have been completed. This letter shall be submitted to the Environmental Coordinator of the County.

(d) To guarantee the success of the new trees, the Owner shall retain a qualified individual (e.g., arborist, landscape architect/contractor, nurseryman) to monitor the new trees' survivability and vigor until the trees are successfully established, and prepare monitoring reports, on an annual basis, for no less than three years. Based on the submittal of the initial planting letter, the first report shall be submitted to the County Environmental Coordinator one year after the initial planting and thereafter on an annual basis until the monitor, in consultation with the County, has determined that the initially required vegetation is successfully established. Additional monitoring will be necessary if initially required vegetation is not considered successfully established. The Owner, and successors-in-interest, agrees to complete

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any necessary remedial measures identified in the report(s) to maintain the population of initially planted vegetation which is approved by the Environmental Coordinator.

(e) Prior to issuance of construction permits, a cost estimate for a planting plan, installation of new trees, and maintenance of new trees for a period of three years shall be prepared by a qualified individual (e.g., landscape contractor) and shall be reviewed and approved by the County Department of Planning and Building. Prior to site disturbance, a performance bond equal to the cost estimate (in a form approved by County Counsel) shall be posted by the Owner with the County Department of Planning and Building.

(f) At the time of application for the first grading or construction permit, the Owner shall clearly show on the project plans the type, size, and location of all trees to be removed as part of the project and all remaining trees within 50 feet of construction activities. The project plans shall also show the type and location of tree protection measures to be employed. All trees to remain on-site that are within fifty feet of construction or grading activities shall be marked for protection (e.g., with flagging) and their root zone fenced prior to any grading. The outer edge of the tree root zone is 1 ½ times the distance from the trunk to the drip line of the tree. Grading, utility trenching, compaction of soil, or placement of fill shall be avoided within these fenced areas. If grading in the root zone cannot be avoided, retaining walls shall be constructed to minimize cut and fill impacts. Care shall be taken to avoid surface roots within the top 18 inches of soil. If any roots must be removed or exposed, they shall be cleanly cut and not left exposed above the ground surface.

(g) All oak trees identified to remain shall not be removed. Unless previously approved by the County Environmental Coordinator, the following activities

are not allowed within the root zone of existing or newly planted oak trees: year-round irrigation (no summer watering, unless "established" new tree or native compatible plant(s) for up to 3 years); grading (includes cutting and filling of material); compaction (e.g., regular use of vehicles); placement of impermeable surfaces (e.g., pavement); disturbance of soil that impacts roots (e.g., tilling).

(h) The Owner recognized that trimming of oaks can be detrimental in the following respects and agrees to minimize trimming of the remaining oaks: removal of larger lower branches should be minimized to (1) avoid making tree top heavy and more susceptible to "blow-overs," (2) reduce having larger limb cuts that take longer to heal and are much more susceptible to disease and infestation, (3) retain the wildlife that is found only in the lower branches, (4) retains shade to keep summer temperatures cooler (retains higher soil moisture, greater passive solar potential, provides better conditions for oak seeding volunteers), and (5) retain the natural shape of the tree. Limit the amount of trimming (roots or canopy) done in any one season as much as possible to limit tree stress/shock (10% or less is best, 25% maximum). Excessive and careless trimming not only reduces the potential life of the tree, but can also reduce property values if the tree dies prematurely or has an unnatural appearance. If trimming is necessary, the Owner agrees to either use a skilled arborist or apply accepted arborist's techniques when removing limbs. Unless a hazardous or unsafe situation exists, trimming shall be done only during the winter for deciduous species.

Small trees (smaller than 6 inches in diameter at four feet above the ground) within the project area are considered to be of high importance, and when possible, shall be given similar consideration as larger trees.

(i) Construction on this project should occur between June and October when California red-legged frogs are not likely to be traveling between water sources. If construction is to begin before June, then a County approved biologist shall conduct a protocol level survey of the area immediately prior to ground-breaking activities.

(j) Prior to issuance of any building permits, approval of the Engineering Geology Investigation Report by the County Geologist is required. Implementation of the mitigation measures listed in the geological report (Engineering Geology Review; Geosolutions; June 2, 2004), in addition to items listed in the recommendation section of the San Luis Obispo County Engineering Geologist Report Review Form is required.

(k) Cut slopes exceeding 2 to 1 (horizontal to vertical) in steepness should be retained or reviewed by the Engineering Geologist or Soil Engineer for stability. Due to the presence of hard metavolcanic units, un-retained cuts with slopes up to 100 percent (1 to 1) may be considered under the supervision of the Engineering Geologist. Conventional grading equipment may be used for excavations although areas of hard rock may be encountered and may require hoe-ram or hard rock excavating equipment.

(l) It is recommended that the foundations for the proposed residence be in conformance with Uniform Building Code (UBC) guidelines (1806.5.3, 1806.5.6, and figure 18-I-1). Face of the footing setback distance be a minimum of $H/3$ (measured horizontally) from the face of the slope where H is the height of slope. This setback distance need not exceed 40 feet. As an alternative, due to the presence of competent bedrock on the north side of the proposed residence, the minimum footing setback measured horizontally from the top of the descending slope must be maintained at a minimum of 15 feet (lateral distance measured from the top edge of the slope) from the

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north slope. Figure 7, Footing Setbacks, depicts minimum footing setback distances. Footing setback from the eastern slope may be in conformance with UBC guidelines and may be a 10-foot lateral distance separation from base of footing from face of slope. Footing setback as measured from the top edge of the western slope may be a minimum of 10 feet.

(m) It is recommended that foundation excavations be excavated into uniform competent bedrock as observed and approved by the Project Engineering Geologist.

(n) The Engineering Geologist should review site plans prior to construction.

(o) Concentrated surface drainage should be directed away from all constructed slopes. Drainage outfall should be toward the east and west sides (existing drainages) of the proposed building pad.

(p) Gutters should be installed along all sloped roof-lines. Gutter down spouts should not allow concentrated drainage near the foundations but rather should convey water in solid piping away from the residence and toward the drainage channels east and west of the proposed residence.

(q) Surface drainage should be controlled to prevent concentrated water-flow on either natural or constructed slopes. Surface drainage gradients should be planned to prevent ponding and promote drainage of surface water away from building foundations, edges of pavements or natural or man-made slopes. For soil areas we recommend that a minimum of two (2) percent gradient be maintained.

(r) Excavation, fill, and construction activities should be in accordance with appropriate codes and ordinances of the County of San Luis Obispo. In additional

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unusual subsurface conditions encountered during grading such as springs or fill material should be brought to the attention of the Engineering Geologist and Soils Engineer.

(s) All components of the septic disposal system should be in conformance with the California Regional Water Quality Control Board basin standards and San Luis Obispo County Standards.

(t) To minimize potential fire safety impacts, the Owner agrees to abide by the recommendations made by the California Department of Forestry (CDF) letter dated April 20, 2005, and the Fire Safety Standards (Land Use Ordinance Section 22.05.086).

(u) To avoid potential modification or removal of sensitive vegetation for fire protection, all applicable structures shall be setback from the edge of the open space easement area the distance recommended by CDF. This setback shall be shown on all applicable future construction plans.

2. Indemnification. The Owner shall defend, indemnify and save harmless the County of San Luis Obispo, its officers, agents and employees from any and all claims, demands, damages, costs, expenses, judgments, or liability occasioned by the performance or attempted performance of the provisions hereof, or in any way arising out of this agreement, including, but not limited to, those predicated upon theories of violation of statute, ordinance or regulation, violation of civil rights, inverse condemnation, equitable relief, or any wrongful act or any negligent act or omission to act on the part of the Owner or of agents, employees, or independent contractors directly responsible to the Owner; providing further that the foregoing obligation to defend, indemnify, and save harmless shall apply to any wrongful acts, or any passively

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negligent acts or omissions to act, committed jointly or concurrently by the Owner, the Owner's agents, employees, or independent contractors and the County, its agents, employees or independent contractors. Nothing contained in the foregoing indemnity provisions shall be construed to require the Owner to indemnify the County against any responsibility or liability in contravention of Section 2782 of the Civil Code.

3. Binding on successors in interest. This agreement shall be deemed an equitable servitude and a covenant running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of said property or any portion thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

4. Effect of waiver. County's waiver of breach of any one term, covenant, or provision of this agreement, shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

5. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

6. Law governing and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created thereunder are performable in the County of San Luis Obispo, and such County shall

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be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

7. Enforceability. If any term, covenant, condition or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

8. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices required to be given to County shall be addressed as follows: Director of Planning and Building, County of San Luis Obispo, County Government Center, Room 310, San Luis Obispo, California 93408. Notices required to be given to the Owner shall be addressed as follows: Stan Weaver, 14199 Morro Road, Atascadero, California 93422.

Provided that any party may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

9. Owner not agent of County. Neither Owner nor any of Owner's agents or contractors are or shall be considered to be agents of County in connection with the performance of Owner's obligations under this agreement.

10. Entire agreement and modifications. This agreement sets forth the full and entire understanding of the parties regarding the matter set forth herein, and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding such matters are hereby superseded or terminated in their entirety. No changes, amendments, or alterations to the provisions of this agreement shall be

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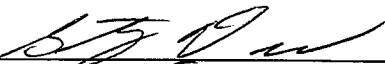
effective unless in writing and executed by the parties hereto or their assigns and successors in interest.

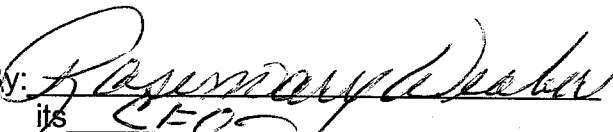
11. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation of this agreement shall serve as constructive notice of the obligations contained herein to be performed by the Owner and the successors in interest to all or any portion of Owner's Property.

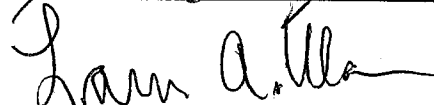
IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.


OWNER

STAN WEABER CONSTRUCTION, INC.
a California corporation

By: 
its PRESIDENT

By: 
its CEO


LARRY A. ULAM


LAURA J. ULAM

JOHN DOUGLAS FORT, TRUSTEE OR
SUCCESSOR TRUSTEE FOR THE JOHN
DOUGLAS FORT AND NETTIE ULAM FORT
TRUST U/T/A DATED DECEMBER 28, 1983

Nettie Ulam Fort
NETTIE ULAM FORT, TRUSTEE OR
SUCCESSOR TRUSTEE FOR THE JOHN
DOUGLAS FORT AND NETTIE ULAM FORT
TRUST U/T/A DATED DECEMBER 28, 1983

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: James B. Lindholm, Jr.
Deputy County Counsel

Dated: April 12, 2006

APPROVED AS TO CONTENT:

VICTOR HOLANDA, AICP
Director of Planning and Building

By: Victor Holanda (PB)

Dated: 4/7/06

[NOTE: This Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

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STATE OF CALIFORNIA

)

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ss.

COUNTY OF SAN LUIS OBISPO

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On _____, before me, _____,
Deputy County Clerk-Recorder, County of San Luis Obispo, State of California,
personally appeared _____,
personally known to me to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same in his/her
authorized capacity, and that by his/her signature on the instrument the person or the
entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

JULIE RODEWALD, County Clerk-Recorder
and Ex-Officio Clerk of the
Board of Supervisors, County of
San Luis Obispo, State of California

By: _____
Deputy County Clerk-Recorder

[SEAL]

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STATE OF California

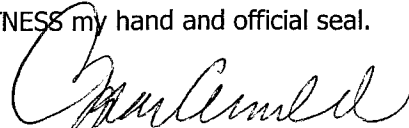
COUNTY OF San Luis Obispo

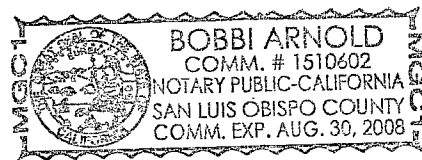
On March 1, 2006 before me, Bobbi Arnold
(Name of Notary Public)

personally appeared Stan Weaber, Larry A. Ulam, Laura J. Ulam and Nettie Ulam Fort

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


(Signature of Notary Public)



(This area for notarial seal)

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California All-Purpose Acknowledgement/Jurat

State of California

County of San Luis Obispo

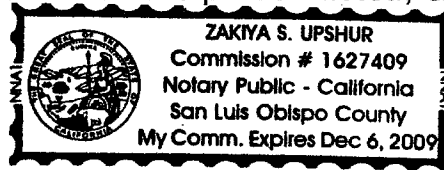
On 4/3/06 before me, Zakiya S. Upshur personally appeared:

Rosemary A. Weaver

☐ Personally known to me – OR – ☒ Proved to be on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary



Notary Seal

Optional Data

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

Capacity Claimed By Signer: Individual

Description of Attached Document: Open Space Agreement

Number of Pages: 16

Date of Document: April 3, 2006

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SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT BY BECOMING SUBJECT TO THE TERMS, COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE FOREGOING AGREEMENT ESTABLISHING RESTRICTIONS AND OBLIGATIONS FOR REAL PROPERTY ADJUSTED BY LOT LINE ADJUSTMENT COAL 04-0118. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3.)

The undersigned, beneficiary under that certain Deed of Trust recorded July 11, 2003, as Document No. 2003-075622, of the Official Records in the office of the County Recorder in the County of San Luis Obispo, State of California, does hereby join in, and consent to, each and all of the terms and provisions of the within Agreement Establishing Restrictions And Obligations For Real Property Adjusted By Lot Line Adjustment COAL 04-0118, and does hereby subordinate its interests to the entire effect of this agreement.

Dated: 3/2/06.

BENEFICIARY

SAN LUIS TRUST BANK

By: Brian R. Kelly
its VICE PRESIDENT, CONTROLLER

[NOTE: This Subordination Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

11090ktagr.doc

California All-Purpose Acknowledgement/Jurat

State of California

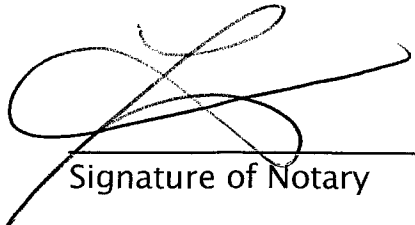
County of San Luis Obispo

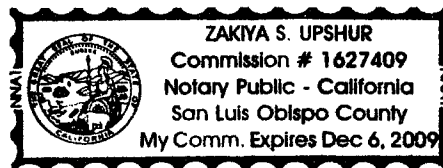
On 4/6/06 before me, Zakiya S. Upshur personally appeared:

Brian Rober

☒ Personally known to me – OR – ☐ Proved to be on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Signature of Notary



Notary Seal

Optional Data

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

Capacity Claimed By Signer: Individual

Description of Attached Document: Open Space Agreement

Number of Pages: 16

Date of Document: April 3, 2006

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EXHIBIT A

All of Parcel Map COAL 04-0118 as shown on a map recorded in Book _____, Page _____ of Parcel Maps, in the office of the County Recorder of the County of San Luis Obispo, State of California.

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IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO.

**RESOLUTION APPROVING AND ACCEPTING AN OPEN-SPACE AGREEMENT
GRANTING AN OPEN-SPACE EASEMENT TO THE
COUNTY OF SAN LUIS OBISPO BY STAN WEABER CONSTRUCTION INC., A CALIFORNIA
CORPORATION, LARRY A ULAM, NETTIE ULAM FORT, TRUSTEE OR SUCCESSOR TRUSTEE
FOR THE JOHN DOUGLAS FORT AND NETTIE ULAM FORT TRUST U/T/A DATED DECEMBER
28, 1983**

The following resolution is now offered and read:

WHEREAS, the County of San Luis Obispo has been duly requested to approve and accept a certain grant and offer to dedicate to the County of San Luis Obispo as open-space that certain real property described in the open-space agreement attached hereto and made a part hereof; and

WHEREAS, the Director of Planning and Building by letter dated May 2, 2006, has duly recommended that the Board of Supervisors approve and accept such offer of dedication to the County of San Luis Obispo, and has further recommended that such action is consistent with the County's general plan.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. The Board of Supervisors finds and determines that the preservation of land offered for dedication to the County of San Luis Obispo as open-space in the attached agreement is consistent with the County's general plan; that the land is essentially unimproved and if retained in its natural state has scenic value to the public and is valuable as a watershed, and the offer of dedication contained in said agreement contains appropriate covenants to that end; that it is in the public interest that the land be retained as open-space because such land will add to the amenities of living in neighboring urbanized areas; and that approval of the above agreement is categorically exempt from the requirements of the California Environmental Quality Act.

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2006

2. The Open-Space Agreement Granting An Open-Space Easement To The County of San Luis Obispo, a copy of which is attached hereto and is incorporated by reference herein as though set forth in full, is hereby approved and the dedication contained therein is hereby accepted by the County of San Luis Obispo and the Chairperson of the Board of Supervisors is hereby authorized and directed to execute said agreement on behalf of the County of San Luis Obispo.

3. The County Clerk is hereby authorized and directed to record the above agreement and a certified copy of this resolution in the office of the County Recorder of the County of San Luis Obispo, and file a copy of said agreement and resolution with the County Assessor of the County of San Luis Obispo.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to-wit:

AYES:

NOES:

ABSENT

ABSTAINING:

the foregoing resolution is hereby adopted.

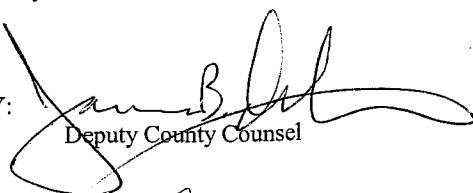
Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors
of the Board of Supervisors, County
of San Luis Obispo, State of California

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

BY: 
Deputy County Counsel

DATED: April 12, 2006

[SEAL]

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RECORDING REQUESTED BY:

County of San Luis Obispo

AND WHEN RECORDED MAIL TO:

Clerk of the Board of Supervisors
County of San Luis Obispo
County Government Center
San Luis Obispo, CA 93408

APN 051-341-004
051-341-007
051-351-005
051-351-007

OPEN-SPACE AGREEMENT GRANTING AN OPEN-SPACE EASEMENT
TO THE COUNTY OF SAN LUIS OBISPO

THIS AGREEMENT is made and entered into this ____ day of _____,
20____, by and between STAN WEABER CONSTRUCTION, INC., a California
Corporation,
company, LARRY A. ULAM, LAURA J. ULAM, JOHN DOUGLAS FORT AND NETTIE
ULAM FORT, TRUSTEES OR SUCCESSOR TRUSTEES FOR THE JOHN DOUGLAS
FORT AND NETTIE ULAM FORT TRUST U/T/A DATED DECEMBER 28, 1983,
hereinafter referred to as "Owner," and the COUNTY OF SAN LUIS OBISPO, a political
subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, Owner is the record owner of certain real property (hereinafter
referred to as "Owner's Property") located in the County of San Luis Obispo, State of

ck. title rpt./Lot Line Adjustment COAL 04-0118



California, which is more particularly described in Exhibit A attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, Owner has filed an application and lot line adjustment map requesting approval of Lot Line Adjustment COAL 04-0118, which was approved by the Subdivision Review Board on June 6, 2005; and

WHEREAS, as a condition of approval of said lot line adjustment and as a condition precedent to the approval and recordation of Parcel Map COAL 04-0118 completing and finalizing said lot line adjustment by County for Owner's Property, Owner is required to enter into an agreement with the County, on behalf of himself and his successors in interest, to maintain a portion of the site in open-space use in order to protect the existing trees and sensitive native understory; and

WHEREAS, Owner intends that the restrictions contained in this agreement shall apply to that portion of Owner's Property (hereinafter referred to as the "Subject Property") which is more particularly described in Exhibit B attached hereto and incorporated by reference herein as though set forth in full; and

WHEREAS, execution of this agreement by Owner and County, and subsequent performance of its obligations by Owner and his successors in interest, will satisfy the requirement for dedication of an open space easement made a condition of approval of the lot line adjustment referred to above; and

WHEREAS, a purpose of this agreement is to protect the existing oak trees and sensitive native understory, and to specify that the activities and uses on the Subject Property shall be passive in nature and not adversely impact the identified sensitive biological resources; and

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2009

WHEREAS, the Subject Property has certain natural scenic beauty and existing openness, and both Owner and County desire to preserve and conserve for the public benefit the great natural scenic beauty and existing openness, natural condition and present state of use of said property of the Owner; and

WHEREAS, Owner is willing to grant to County the scenic use, as hereinafter expressed, of the land and thereby protect the present scenic beauty and existing openness of the Subject Property by the restricted use of said property by Owner through the imposition of the conditions hereinafter expressed; and

WHEREAS, both Owner and County intend that the terms, conditions, and restrictions of the open-space easement granted in this agreement are in compliance with Government Code sections 51070 through 51097, inclusive, hereinafter referred to as the "Open-Space Easement Act of 1974," so as to be an enforceable restriction under the provisions of Revenue and Taxation Code section 422; and

WHEREAS, Owner has supplied County with a current title company preliminary title report or preliminary subdivision guarantee listing all trust deed beneficiaries and mortgagees, if any, under prior recorded deeds of trust and mortgages on the Subject Property.

NOW, THEREFORE, in consideration of the premises and in compliance with the provisions of Government Code sections 51070 through 51097, inclusive, and in further consideration of the mutual promises, covenants, and conditions herein contained and the substantial public benefits to be derived therefrom, the parties hereto agree as follows:

1. Grant of open-space easement. Owner hereby grants to County, for the term specified in paragraph 8 below, an open-space easement in and to the Subject

Property described above. The open-space easement granted herein conveys to County an estate and interest in the real property of the nature and character specified in the Open-Space Easement Act of 1974, which is subject to the express conditions and restrictions imposed herein upon the use of the property by Owner. To that end, and for the purpose of accomplishing the intent of the parties hereto, Owner covenants on behalf of himself, his successors and assigns with the County, its successors and assigns to do and refrain from doing, severally and collectively, upon the Subject Property, the various acts hereinafter mentioned.

2. Restrictions on use of the Subject Property. The restrictions imposed upon the use of the Subject Property by Owner and his successors in interest and the acts which Owner and his successors in interest shall refrain from doing, and permit to be done, upon the Subject Property are as follows:

(a) No buildings, structures, or other improvements shall be placed, constructed, or erected upon the Subject Property.

(b) No advertising of any kind or nature shall be located on or within the Subject Property.

(c) All allowed activities or uses on the Subject Property shall be passive in nature, and not adversely impact the identified biological resources as shown in the biological report on file with the Department of Planning and Building. Owner shall not plant or permit to be planted any vegetation upon the Subject Property except as necessary for erosion control.

(d) The general topography of the landscape shall be maintained in its present condition and no grading, excavation, or topographic changes shall be made.

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(e) No use of the Subject Property which will or does materially alter the landscape or other attractive scenic features of the property, other than those specified herein, shall be done or suffered.

(f) Owner shall not extract natural resources from the Subject Property, except for development of Owner's underlying water rights.

(g) Owner shall not remove or alter native plants or animals from the Subject Property.

(h) Owner shall not use the Subject Property for agricultural development or agricultural staging activities or storage of any kind. All ^{domesticated} hoofed animals and grazing shall be excluded from the Subject Property and sturdy fencing shall be installed by Owner as necessary to protect sensitive areas.

(i) Owner shall not cut timber, trees, or other natural growth, except as may be required for fire protection, thinning, elimination of diseased growth, and similar protective measures.

(j) Owner shall not use the Subject Property or any portion thereof as a parking lot, storage area, or dump site or otherwise deposit or allow to be deposited on the Subject Property or any portion thereof, temporarily or otherwise, anything whatsoever which is not indigenous or natural to the Subject Property.

(k) Owner shall not cover or cause the Subject Property to be covered in whole or in part with any asphalt, stone, concrete, or other material which does not constitute natural cover for the land nor otherwise disturb the natural cover of the land unless otherwise authorized by the provisions of this agreement.

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3. Reservations of use by Owner. Notwithstanding the provisions of paragraph 2 above, the following property rights in the Subject Property are excepted from this grant and are expressly reserved to Owner:

(a) The right to construct and install the fencing required by Paragraph 2(h) above.

(b) The right to construct, develop, and maintain private water sources and water systems on the Subject Property for the use and benefit of the Subject Property and Owner's property.

(c) The right to the use and occupancy of the Subject Property, subject to the conditions and restrictions imposed in this agreement.

4. Compliance with County regulations. Land uses permitted or reserved to Owner in this agreement are subject to and require compliance with all applicable County ordinances and regulations, including those regulating land use.

5. Construction of improvements. Owner shall not construct or permit the construction of any improvements on the Subject Property except as expressly reserved herein or as authorized in the Open-Space Easement Act of 1974. Provided, however, nothing contained in this agreement shall prohibit the construction of either public service facilities installed for the benefit of the Subject Property or public service facilities installed pursuant to an authorization of the Board of Supervisors of the County or the Public Utilities Commission.

6. No authorization for public trespass. The grant of easement contained herein and its acceptance by the County of San Luis Obispo does not authorize and is not to be construed as authorizing the public or any member thereof to trespass upon or use all or any portion of the Subject Property or as granting to the public or

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any member thereof any tangible rights in or to the Subject Property or the right to go upon or use or utilize the Subject Property in any manner whatsoever. It is understood that the purpose of this agreement is solely to restrict the uses to which the Subject Property may be put so that the property may be kept as near as possible in its natural condition for the benefit of the public by protecting the existing oak trees and sensitive native understory.

7. Effect on prior easements. Nothing contained in this agreement shall limit or affect any easements that are of record and that have been heretofore granted by Owner on, over, under, or across the Subject Property or any portion thereof.

8. Duration of easement. The grant of easement to County contained in this agreement shall be effective when it has been approved and accepted by resolution of the Board of Supervisors in the manner required by law, and it shall remain in effect in perpetuity unless abandoned or otherwise terminated by the Board of Supervisors in accordance with the provisions of the Open-Space Easement Act of 1974.

9. Enforceable restriction. Upon acceptance of the open-space easement granted herein, the Subject Property shall be deemed to be "enforceably restricted" within the meaning of section 422 of the Revenue and Taxation Code and section 8 of Article XIII of the Constitution of the State of California.

10. Binding on successors in interest. This agreement shall be deemed an equitable servitude and a covenant running with the land described herein and shall be binding on the parties hereto and their heirs, assigns, and successors in interest. Any conveyance, transfer, or sale made by Owner of said property or any portion

thereof shall be deemed to incorporate by reference, and be subject to, each of the provisions of this agreement.

11. Effect of waiver. County's waiver of the breach of any one term, covenant, or provision of this agreement shall not be a waiver of a subsequent breach of the same term, covenant, or provision of this agreement or of the breach of any other term, covenant, or provision of this agreement.

12. Judicial enforcement. Enforcement shall be by proceeding at law or in equity, either to restrain a violation or an attempted violation or by suit to recover damages against any person or persons violating or attempting to violate any covenant or restriction contained herein.

13. Law governing and venue. This agreement has been executed and delivered in, and shall be interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of California. All duties and obligations of the parties created hereunder are performable in the County of San Luis Obispo, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this agreement.

14. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

15. Notices. Unless otherwise provided, all notices herein required shall be in writing, and delivered in person or sent by United States first class mail, postage prepaid. Notices required to be given to County shall be addressed as follows:
Director of Planning and Building, County of San Luis Obispo, County Government

Center, Room 310, San Luis Obispo, California 93408. Notices required to be given to Owner shall be addressed as follows: Stan Weaver, 14199 Morro Road, Atascadero, California 93422.

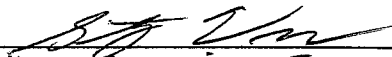
Provided that any party may change such address by notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

16. Agreement to be recorded. Owner and County intend and consent to the recordation of this agreement in the office of the County Recorder of the County of San Luis Obispo, and such recordation of this agreement shall serve as constructive notice of the obligations contained herein to be performed by the Owner and the successors in interest to all or any portion of Owner's Property.

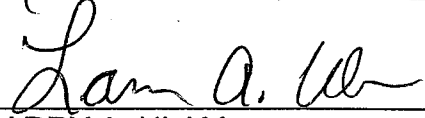
IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

OWNER

STAN WEABER CONSTRUCTION, INC.
a California corporation

By: 
its PRESIDENT


By: 
its CEO


LARRY A. ULAM


LAURA J. ULAM

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3/4

JOHN DOUGLAS FORT, TRUSTEE OR
SUCCESSOR TRUSTEE FOR THE JOHN
DOUGLAS FORT AND NETTIE ULAM FORT
TRUST U/T/A DATED DECEMBER 28, 1983



NETTIE ULAM FORT, TRUSTEE OR
SUCCESSOR TRUSTEE FOR THE JOHN
DOUGLAS FORT AND NETTIE ULAM FORT
TRUST U/T/A DATED DECEMBER 28, 1983

COUNTY OF SAN LUIS OBISPO

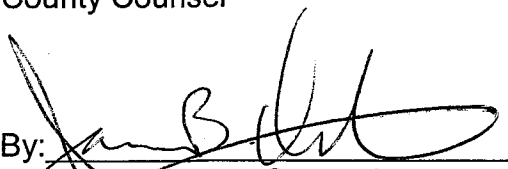
By: _____
Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: 

Deputy County Counsel

Dated: April 12, 2006

LEGAL DESCRIPTION APPROVED AS TO FORM:

GLEN L. PRIDDY
County Surveyor

By: *[Signature]*

Dated: 4/11/06



[NOTE: This Open-Space Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

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STATE OF California

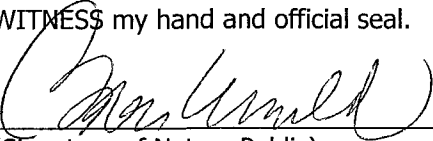
COUNTY OF San Luis Obispo

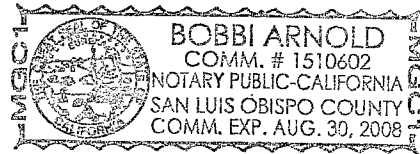
On March 1, 2006 before me, Bobbi Arnold
(Name of Notary Public)

personally appeared Stan Weaber, Larry A. Ulam, Laura J. Ulam and Nettie Ulam Fort

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


(Signature of Notary Public)



(This area for notarial seal)

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California All-Purpose Acknowledgement/Jurat

State of California

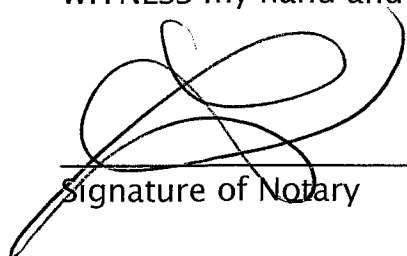
County of San Luis Obispo

On 4/6/06 before me, Zakiya S. Upshur personally appeared:

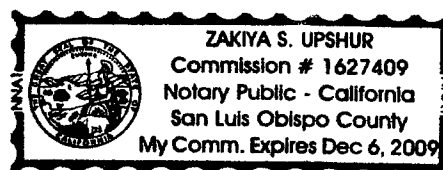
Rosemary A. Weaber

☐ Personally known to me – OR – ☒ Proved to be on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Signature of Notary



Notary Seal

Optional Data

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

Capacity Claimed By Signer: Individual

Description of Attached Document: Open Space Agreement

Number of Pages: 16

Date of Document: April 3, 2006

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STATE OF CALIFORNIA

)

)

ss.

COUNTY OF SAN LUIS OBISPO

)

On _____, before me, _____,
Deputy County Clerk-Recorder, County of San Luis Obispo, State of California,
personally appeared _____,
personally known to me to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same in his/her
authorized capacity, and that by his/her signature on the instrument the person or the
entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

JULIE RODEWALD, County Clerk-Recorder
and Ex-Officio Clerk of the
Board of Supervisors, County of
San Luis Obispo, State of California

By: _____
Deputy County Clerk-Recorder

[SEAL]

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SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT BY BECOMING SUBJECT TO THE TERMS, COVENANTS, CONDITIONS, AND RESTRICTIONS OF THE FOREGOING OPEN-SPACE AGREEMENT GRANTING AN OPEN-SPACE EASEMENT TO THE COUNTY OF SAN LUIS OBISPO. (THIS NOTICE REQUIRED BY CALIFORNIA CIVIL CODE SECTION 2953.3.)

The undersigned, beneficiary under that certain Deed of Trust recorded July 11, 2003, as Document No. 2003-075622, of the Official Records in the office of the County Recorder in the County of San Luis Obispo, State of California, does hereby join in, and consent to, each and all of the terms and provisions of the within open-space agreement, and does hereby subordinate its interests to the entire effect of this open-space agreement.

Dated: 3/2/06.

BENEFICIARY

SAN LUIS TRUST BANK

By: Brian Rota
its VICE PRESIDENT, CONTROLLER

[NOTE: This Subordination Agreement will be recorded. All signatures to this agreement must be acknowledged by a notary.]

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California All-Purpose Acknowledgement/Jurat

State of California

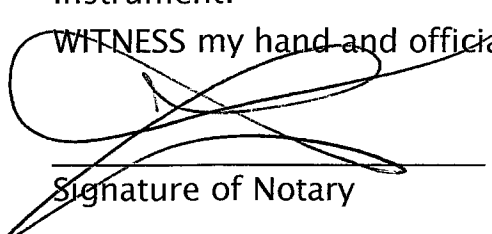
County of San Luis Obispo

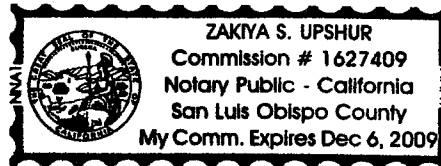
On 4/3/06 before me, Zakiya S. Upshur personally appeared:

Brian Rober

☒ Personally known to me – OR – ☐ Proved to be on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Signature of Notary



Notary Seal

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Capacity Claimed By Signer: Individual

Description of Attached Document: Open Space Agreement

Number of Pages: 16

Date of Document: April 3, 2006

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EXHIBIT A

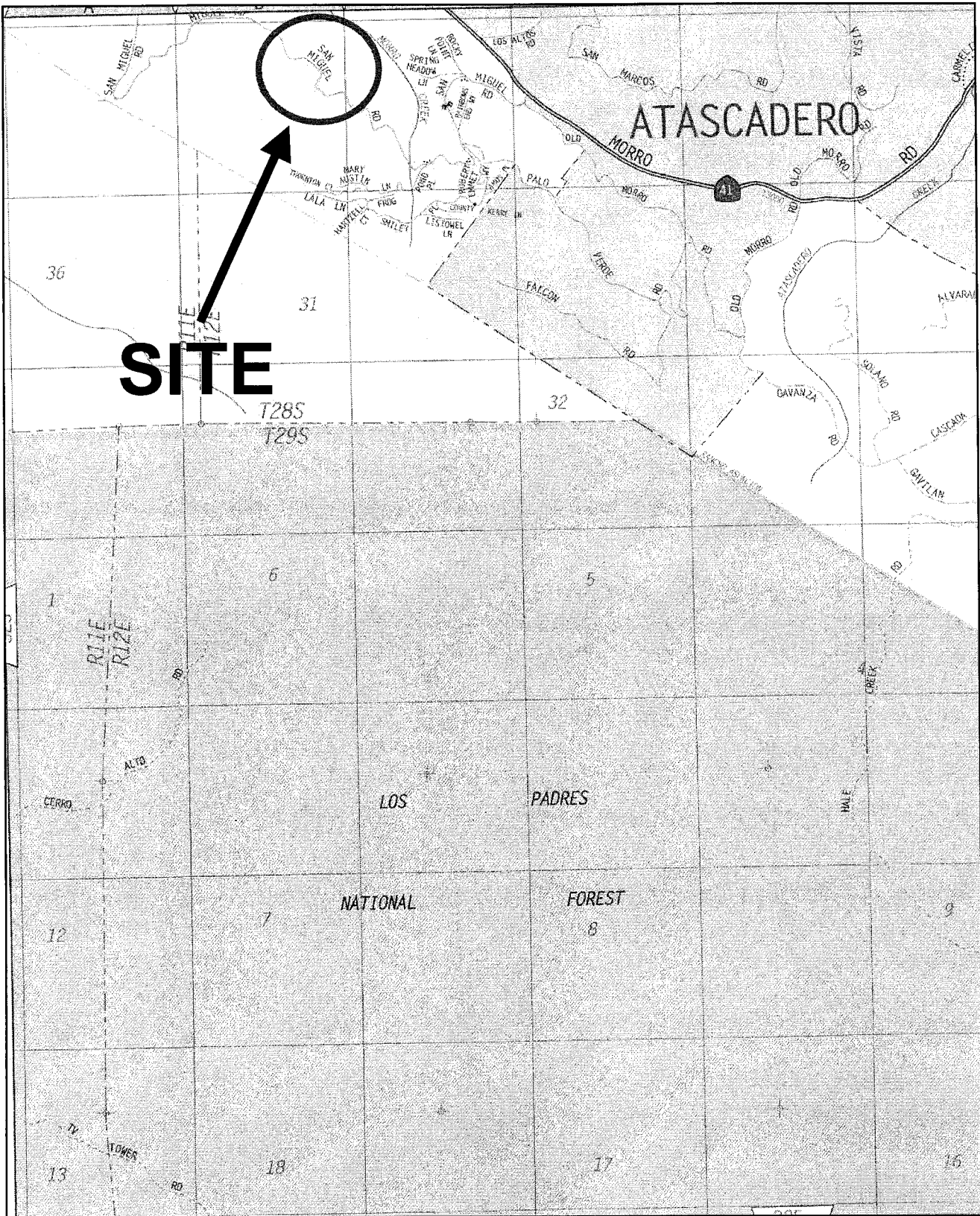
All of Parcel Map COAL 04-0118 as shown on a map recorded in Book _____,
Pages _____ through _____ inclusive of Parcel Maps, in the office of the County
Recorder of the County of San Luis Obispo, State of California.

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EXHIBIT B

Those portions of Parcel 2, Parcel 3, & Parcel 4 of Parcel Map COAL 04-0118 according to the map filed _____, 2006 in Book ____ of Parcel Maps at Page _____, in the Recorder's Office of said County and State, delineated as PRIVATE OPEN SPACE EASEMENT on said Parcel Map.

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US



PROJECT

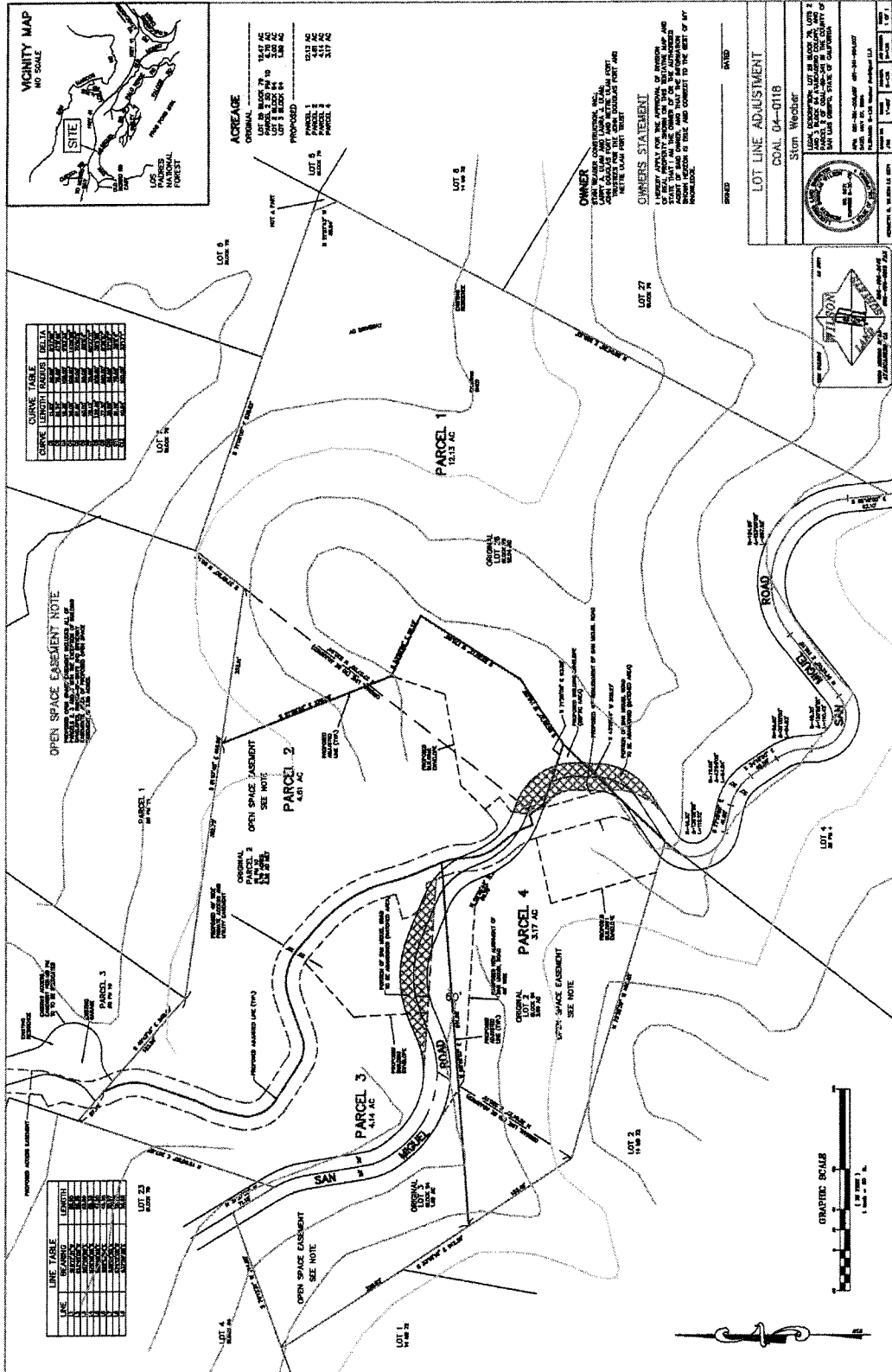
SUB2003-00305
Weaber



EXHIBIT

Vicinity Map

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PROJECT

SUB2003-00305
Weaver



EXHIBIT

Site Plan

Handwritten signature and date: 4/17